

STATE OF TEXAS §
 § **COMMUNICATIONS FACILITIES**
 § **LICENSE AGREEMENT**
COUNTY OF DALLAS §

KNOW ALL BY THESE PRESENTS:

This non-exclusive License for Communications Facilities (“Agreement”) is made by and between the City of Farmers Branch, Texas (“City”) and T-Mobile West LLC, a Delaware limited liability company (“Licensee”) (collectively referred to as “Parties” and individually as a “Party”), for the use of certain premises and/or facilities according to the following terms and conditions:

W I T N E S S E T H:

WHEREAS, Licensee is a telecommunications company duly authorized to provide certain communications services and desires to lease certain property owned by City for installation and operation of the Antenna Facilities as defined herein; and

WHEREAS, City owns the property and facilities located at 3723 Valley View Lane, Farmers Branch, Texas, including the water tower (the "Tower"), as more particularly described and depicted on the Site plan attached hereto, and incorporated herein by reference, as Exhibit “A” (collectively, the “Premises”) and desires to allow Licensee to continue entering and utilizing designated areas of the Premises;

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, the Parties agree as follows:

Article I
Location

1.1 Premises and Facilities. The Premises provided by City are described on the Site Plan attached hereto and incorporated herein as Exhibit “A”. Included upon the Premises shall be Licensee’s personal property and facilities, including Licensee’s radio transmitting and receiving antennas, cabling, and an electronic equipment shelter and associated cabling (collectively referred to as the “Antenna Facilities”), together with easements for access and utilities, as described and illustrated on Exhibit “B”. The license authorized under the terms of this Agreement shall be a license for the use of that portion of the Premises designated for use by Licensee on the Site Plan.

1.2 Site Plan and Elevations. The Site Plan describes and illustrates the location of the Antenna Facilities under this Agreement. The Site Plan includes a scale drawing and inventory analysis of the proposed installations, as well as an elevation of the Premises with the installations. Performance under this Agreement shall be in strict compliance with the Site Plan. If Licensee’s installation, maintenance and operation of the Antenna Facilities materially fail to comply with the Site Plan, at any time, as reasonably determined by City, then City shall have the right following written notice to Licensee and the expiration of the cure period specified in Article V of this

Agreement, to terminate this Agreement upon written notice to Licensee. Any and all proposed modifications to Licensee's Site Plan must be approved in writing by City before Licensee may make any changes to its Site Plan as originally approved by City. Any modifications or structural additions to City water towers must have approval from the Public Works Director and be included with a submitted Site Plan and or subsequent applications for building permits to alter or upgrade the equipment. Approval of such modifications is within the sole discretion of City. If Licensee has a previously approved Site Plan and Elevations ("Plans") for Licensee Antenna Facilities, Licensee shall audit the existing Antenna Facilities to determine such Antenna Facilities are in compliance with such Plans and shall make available such audit findings to the City.

1.3 Licensee has inspected, examined and investigated the status of the title and condition of the Premises to the extent that Licensee has deemed necessary, and Licensee understands, acknowledges and agrees that it is entering into this Agreement to acquire a license to use the Premises "AS IS" in reliance solely upon the results of any inspection, examination and investigation of the status of title and condition of the Premises that Licensee has conducted and not as a result of any representation, warranty, assurance, guaranty or promise of City or any person purporting to act on behalf of City, other than those which may be expressly set forth in this Agreement.

1.3 LICENSEE UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT NEITHER CITY NOR ANY AGENT, EMPLOYEE OR OTHER PERSON ACTING ON BEHALF OF THE CITY, HAS MADE ANY, AND THE CITY EXPRESSLY DISCLAIMS EVERY, REPRESENTATION, WARRANTY (INCLUDING WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND HABITABILITY), ASSURANCE, GUARANTY OR PROMISE, EXPRESS OR IMPLIED, CONCERNING THE STATUS OF THE TITLE OR CONDITION OF THE PREMISES WHICH ARE NOT EXPRESSLY SET FORTH IN THIS AGREEMENT AND THAT NO AGENT OR EMPLOYEE OF THE CITY OR OTHER PERSON HAS ANY AUTHORITY TO MAKE OR DELIVER ANY REPRESENTATION, WARRANTY, ASSURANCE, GUARANTY OR PROMISE WHICH IS NOT SET FORTH IN THIS AGREEMENT.

Article II

Use of Premises

2.1 **Permitted Use.** City agrees to continue to allow Licensee's Antenna Facilities to remain on the Premises in accordance with the terms of this Agreement and the City's Mounted Antenna Policy attached hereto and incorporated herein as Exhibit "C". Licensee's use shall be non-exclusive and shall be for the purpose of the installation, operation, alternation, repair, replacement and maintenance of its Antenna Facilities, and activities related to the foregoing, for the transmission, reception, and operation of a communications system and uses incidental thereto. To the extent not depicted in the Site Plan attached as Exhibit "B", Licensee shall obtain the written approval of the City prior to installation of any new Antenna Facilities or material modifications on the Premises. Licensee understands, acknowledges and agrees that the use of the Premises by Licensee in conjunction with the terms of this Agreement is to be for the installation, operation alternation, repair, replacement and maintenance of communications equipment, and activities related to the foregoing, in strict compliance with the Agreement and the attached Site Plan.

Licensee shall not use the Premises for any other purpose whatsoever, including the storage or placement of debris, replacement Antenna Facilities, or any other item, without first obtaining the prior written consent of City, which may be given or withheld for any reason or for no reason, in the City's sole, absolute and unrestricted discretion.

2.2 Prohibited Use. Licensee shall not use the Premises in any manner that constitutes waste or nuisance, or that violates any applicable law, ordinance or governmental regulation in any respect. Licensee shall not do anything that would render void or uncollectible any insurance then in force with respect to the Premises, or that would in any way increase the premiums payable by City for fire, liability or any other insurance coverage on the Premises or the contents of any Antenna Facilities thereon.

2.3 Subletting of Use Premises or Antenna Facilities. Licensee may not sublet to or license others to use the Premises or Antenna Facilities without the prior written consent of City. Any such attempt by Licensee shall be without effect and may, at City's option, result in the termination of this Agreement.

2.4 Maintenance, Repair or Replacement of Antenna Facilities. Notwithstanding anything to the contrary in this Agreement, Licensee may update, maintain, repair, or replace the Antenna Facilities located upon the Premises from time to time as Licensee reasonably deems necessary without the need to obtain the prior written approval of City, provided that the replacement of the Antenna Facilities, together with related equipment, do not require more space than the existing Antenna Facilities and, in the event more space is needed or Licensee proposes any change in the location of the Antenna Facilities on the Premises, Licensee must obtain City's prior written approval. For any such matter requiring City's approval, Licensee shall submit to City, a detailed proposal for any replacement of the Antenna Facilities and any supplemental materials for City's evaluation and written approval. Any alterations, upgrades or additions to Licensee's Antenna Facilities shall require a building permit. A current and accurate Site Plan must be submitted to City by Licensee and maintained on file with the City for the entire term of this Agreement and all renewals thereof. In the event Licensee desires additional space for the Antenna Facilities or expansion, City reserves the right to increase rent payments.

Article III Term

3.1 This Initial Term of this Agreement shall be for five (5) years, commencing on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due on the first day of each month in equal monthly installments of Three Thousand Six Hundred Dollars and (\$3,600.00) ("Base Rent"). Payments shall be made to City or to such other person, firm or place as City may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Article IV below ("Rent Payment"). The Agreement shall commence on January 1, 2019 (the "Commencement Date").

3.2 Licensee is granted the option to renew this license for three (3) additional five (5) year terms (each additional five (5) year term being a "Renewal Term"), after the initial term expires. Unless Licensee gives written notice of its decision not to exercise the renewal option

within thirty (30) days prior to the expiration of the current term or period, this Agreement will automatically renew as long as Licensee remains in full compliance with all other provisions of this Agreement. All the terms and covenants of this Agreement apply to all renewal periods, subject to amendment by the mutual agreement of the Parties, in writing and signed by both Parties. If Licensee continues to possess the Premises following the expiration of all of the renewal periods provided herein, and this Agreement has not been renewed or superseded, this Agreement (1) shall be deemed to be a holdover tenancy at will but shall not itself constitute a renewal or extension of any term; (2) shall continue from month-to-month under the terms and conditions set forth herein; and, (3) may be terminated by either Party upon at least thirty (30) days written notice to the other Party. All the terms and covenants of this Agreement apply to all holdover tenancy periods.

Article IV

Payment Terms and Conditions

4.1 **Rent Payment.** In consideration for providing the Premises for use by Licensee, the Licensee shall pay the Base Rent to City commencing on the Commencement Date, as provided in Section 3.1. Interest on late payments shall accrue at the maximum rate allowed by law. If this Agreement is terminated at a time other than the last day of the calendar year of the term for any reason other than an Event of Default by Licensee, all Rent Payments shall be prorated as of the date of termination and all prepaid Rent Payments shall be refunded to Licensee. The Base Rent Payment shall be increased on the first day of each Renewal Term by an amount equal to eighteen percent (18%) of the Rent Payment in effect during the previous year.

4.2 **Electrical Power.** Licensee shall furnish and install an electrical sub-meter at the Premises for the measurement of electrical power used by Licensee's installation. In the event such sub-meter is installed, the Licensee shall pay the utility directly for its power consumption to the utility. Licensee shall be permitted at any time during the Term, to install, maintain and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source, and all related equipment and appurtenances within the Premises, or elsewhere on the Property in such locations as reasonably approved by City. Licensee shall have the right to install conduits connecting the temporary power source and related appurtenances to the Premises.

4.3 **Additional Fees.** Only to the extent directly attributable to Licensee's use of the Premises, City may assess, in addition to the Rent Payment, additional reasonable payments by Licensee to cover City's additional out-of-pocket costs to the extent actually incurred by the City and paid to third-parties but only the portion of such costs which are in proportion to Licensee's use (as opposed to some other use) shall be owing by Licensee ("Additional Fees"), which include but are not limited to: (i) except as provided in Section 4.2, costs of utilities associated with the day-to-day operation and maintenance of the Premises; (ii) to the extent required by this Agreement, costs incurred by City for providing access to City secured area, including the Tower, outside of normal business hours; and, (iii) applicable taxes, including property taxes, or business taxes levied on the Premises specifically attributable to Licensee's use of the Premises. City shall notify Licensee of amounts due in Additional Fees in writing (and provide supporting invoices for same), and Licensee shall pay Additional Fees within sixty (60) days of receiving notice of same from City.

4.4 **Payment Address.** Rent Payments and Additional Fees shall be made payable to: “City of Farmers Branch”, 13000 William Dodson Parkway, Farmers Branch, Texas 75234, Attention: Director of Finance. City shall provide Licensee written notice of any change in address for purposes of Rent Payments and Additional Fees.

4.5 **Lawful Currency.** Rent Payments and Additional Fees shall be made according to paragraph 4.1 above in lawful money of the United States of America without any abatement, setoff, reduction, deduction, counterclaim or other recoupment whatsoever. In no event will Licensee be obligated to pay any general income or franchise taxes measured upon the income of the City. This Section does not preclude the assessment of lawful fees pursuant to a franchise or other agreement that the City may have with Licensee or its parent or any subsidiary or affiliate.

4.6 **Dishonored Checks.** Any dishonored check shall incur a service charge of ten percent (10%) of its face amount.

Article V Termination

5.1 **Termination for Cause.** Upon the occurrence of any one or more of the “Event of Default” defined below, City may, without penalty, at its option and without prejudice to any other remedy to which it may be entitled at law or equity, or otherwise under this Agreement, terminate use or occupancy under this Agreement at any time, either in whole or in part, by giving at least sixty (60) days prior written notice thereof to Licensee with the understanding that all use of the Premises being terminated shall cease upon the date specified on such notice. For the avoidance of doubt, the foregoing termination right of City applies only to Events of Default by Licensee. Licensee shall equitably compensate City in accordance with the terms of Article IV of this Agreement for the use of the Premises up to the date of termination as specified in such notice. Licensee shall not, however, be entitled to any damages, including but not limited to, lost or anticipated profits should City choose to exercise its option to terminate.

5.2 **Event of Default.** Any of the following occurrences, conditions, or acts shall be deemed an “Event of Default” under this Agreement:

- (a) if Licensee fails to pay amounts due under this Agreement within ten (10) days of receipt of written notice that such payments are overdue; or
- (b) if either Party fails to observe or perform its obligations under this Agreement other than as provided in Section 5.2(a) above and does not cure such failure within thirty (30) days from the Party’s receipt of written notice of breach, or such longer period as may be mutually agreed upon by the Parties to complete a cure commenced within the thirty (30) day period.

5.3 **Termination by Licensee.** This Agreement may be terminated by Licensee, without penalty, further liability, or prejudice to any other remedy to which it may be entitled at law or equity, or otherwise under this Agreement, as follows:

- (a) upon written notice, if Licensee is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Antenna Facilities as now and hereafter intended by Licensee; or, if Licensee determines in its sole discretion that the cost of obtaining or retaining the same is commercially unreasonable;
- (b) on sixty (60) days written notice following the date notice is given to City under Section 5.2(b), if the breach described in the notice is not cured by City; or
- (c) unless there has been a default by City, Licensee may terminate this Agreement after the Term Commencement Date after thirty (30) days written notice to City only if (i) if any environmental report for the Premises reveals the presence of any Hazardous Substance after the Term Commencement Date; or (ii) if Licensee is unable to occupy and utilize the Site or the Facilities due to an action of the FCC, including without limitation, a take back of channels or change in frequencies; or (iii) if the Licensee determines that the Premises is not appropriate for its operations for economic or technological reasons, including, without limitation, signal interference, or the Facilities or the communications systems to which the Facilities belong become unacceptable under its design or engineering specifications; or (iv) if any portion of the Site or Facilities is damaged, destroyed, condemned or transferred in lieu of condemnation.
- (d) notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if City fails, within thirty (30) days after receipt of written notice of such breach, to perform an obligation required to be performed by City if the failure to perform such an obligation interferes with Licensee's ability to conduct its business on the Premises; provided, however, that if the nature of City's obligation is such that more than thirty (30) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such thirty (30) day period and thereafter diligently pursued to completion and the parties mutually agree in writing to extend the cure period.

5.4 Discontinued Use of the Water Tower. If City determines to discontinue the use of the Tower, City shall have the right upon twelve (12) months written notice to Licensee, to terminate this Agreement without penalty or further liability.

5.5 Destruction of Water Tower. Immediately upon written notice by the City, if the Premises, the Antenna Facilities or the Tower are destroyed or damaged so as in Licensee's reasonable judgment to substantially and adversely affect the effective use of the Antenna Facilities, Licensee may immediately terminate this Agreement without penalty or further liability to the City. In such event, all rights and obligations of the Parties shall cease as of the date of the damage or destruction, and Licensee shall be entitled to the reimbursement of any Rental Payments prepaid by Licensee the month the damage or destruction occurred. In the event of a casualty to the Tower, and City elects to rebuild the Tower and neither City or Licensee elect to terminate this Agreement, Licensee shall have the right to rebuild or repair the Antenna Facilities upon

restoration of the Tower. If Licensee elects to continue this Agreement, then all Rental Payments shall abate until the Premises and Licensee's Antenna Facilities are restored to the condition existing immediately prior to such damage or destruction.

Article VI

City's Right of Entry On to Premises

6.1 City and City's agents, employees or contractors may enter upon the Premises, except Licensee's secured areas, for the purpose of performing repairs and maintenance work to the Premises. If maintenance work is required, City agrees to provide Licensee with reasonable notice prior to commencing such work to allow Licensee to remove any and all Antenna Facilities made by Licensee. Decisions as to the extent to which Licensee will be required to remove such Antenna Facilities shall be within the sole discretion of City. If, however, repair or maintenance requires immediate action on the part of City, City will take reasonable efforts to notify Licensee but may enter the Premises, except Licensee's secured areas, without first notifying Licensee and take such action as is required, including but not limited to removing any and all Antenna Facilities made by Licensee. In no event shall City be liable for any expenses associated with its entry and removal of the Antenna Facilities or for lost or anticipated profits. If City must remove or relocate any Antenna Facilities to perform repairs or maintenance and is unable to first notify Licensee, City will first power down or turn off the antennas. Licensee, at its expense and exclusive use, may use any and all reasonable and appropriate means of restricting access to the Licensee's equipment shelter, as identified in the Site Plan.

6.2 **Cell on Wheels.** If Licensee's Antenna Facilities must be temporarily relocated, pursuant to Section 6.1, Licensee shall have the right to set up a portable mounted antenna, a cell on wheels (COW), and/or some other similar temporary structure approved by City, on City premises to allow Licensee to continue to provide wireless communications service. Licensee may maintain its COW for a period of thirty (30) days past the date of removal of the Antenna Facilities. To maintain the temporary antenna, COW, or other temporary structure for a period in excess of thirty (30) days, Licensee must obtain written approval from City. If the Premises are not in such condition as to be utilized by Licensee at the end of the initial thirty (30) day period, City may provide as many additional thirty (30) day extensions for such temporary structures as are necessary to allow Licensee to continue its operations as authorized by this Agreement.

Article VII

Access

7.1 City agrees that Licensee shall have free access to the Premises (excluding the Tower property) at all times for the purpose of installing, upgrading, repairing and maintaining the said equipment. City shall furnish Licensee with necessary means of access for the purpose of ingress and egress to the Premises. It is agreed, however, that only authorized engineers, employees or properly authorized contractors of Licensee or persons under their direct supervision will be permitted to enter the Premises. Licensee shall only access the Tower property when accompanied by a City staff member.

7.2 Licensee's right of access is a contractual right for the benefit of Licensee only and nothing contained in this Agreement shall be construed to constitute a dedication or an easement. However, in the event this Agreement is assigned in accordance and in compliance with Section 21.9 below, such right of access shall inure to the benefit of Licensee's assignee.

Article VIII

Damages to Property

8.1 **Damage and Restoration of Property.** Licensee shall immediately notify City of any and all damages resulting from, arising out of, or caused to, the Premises and City property surrounding the Premises, including but not limited to structural damages, electrical damages, damages to fencing, irrigation systems or landscaping but only to the extent caused by Licensee's operations or by Licensee, its officers, agents, employees and invitees. Licensee shall be solely responsible for the costs and the repair of all such damages and such repairs and/or replacements shall be completed within thirty (30) calendar days following written notice by City to Licensee and shall be completed in a manner reasonably acceptable to City.

8.2 **Failure to Restore Property.** If Licensee does not make or perform any required maintenance or repairs to the Premises within the time period provided in Section 8.1, City shall have the right, but not the obligation, to make such repairs and to perform such maintenance, in which event Licensee shall pay City the cost thereof within thirty (30) business days of demand unless the cause of such damage is the subject of a bonafide dispute by Licensee. Within thirty (30) days following the expiration or earlier termination of this Agreement, Licensee shall restore the Premises to substantially the same condition in which the Premises existed on the Effective Date of this Agreement, ordinary wear and tear and loss due to other casualty beyond Licensee's control excepted.

Article IX

Electrical, Radio and Intermodulation Interference

9.1 Licensee shall operate its Antenna Facilities in a manner that will not unreasonably cause radio frequency interference with other licensees of the Premises in their use of any equipment which predate the installation and operation of Licensee's Antenna Facilities or their conduct of any activity on the Premises but only to the extent such parties are operating pursuant to agreements which pre-date the installation and operation of Licensee's Antenna Facilities. Licensee's operation of the Antenna Facilities shall be following all FCC requirements. The City may be allowed to place antennae or other communications facilities on the Tower regardless of potential or actual interference with Licensee's use, provided however, if Licensee's use of the Premises is materially affected, Licensee may terminate this Agreement.

9.2 If there is a conflict, Licensee shall conduct bandwidth testing of its Antenna Facilities and City equipment to check bandwidth conflict between City's monitoring control system and Licensee's system. If such conflict occurs, Licensee shall take all reasonable steps necessary to resolve the conflict to the reasonable satisfaction of City. If the conflict cannot be remedied to the reasonable satisfaction of City, City may terminate this Agreement upon thirty (30) days written notice to Licensee.

9.3 Should interference prohibited by Section 9.1 occur, Licensee will promptly take all reasonable steps necessary to correct such interference within ten (10) days of receiving written notice of the problem and, if such interference cannot be eliminated within thirty (30) days of such written notice, Licensee shall suspend operations (transmissions) at the site, except for brief periods for testing, while the interference problems are studied and a means to eliminate the problem is determined. Any such method for correction of an interference problem must be acceptable to both City and Licensee. If the interference complained of cannot be eliminated within thirty (30) days of the City providing notice, Licensee will cease its operations, remove all its Antenna Facilities from the Premises, and this Agreement shall be terminated without penalty. Consistent with Section 9.2, after Licensee has demonstrated no conflicts between City's monitoring control system and Licensee's system, in the event City allows an additional third-party to install communications equipment, City agrees to notify newest third-party of interference prior to notifying Licensee. If at any time during the term(s) of this Agreement, Licensee causes interference with the City's public safety equipment, Licensee shall immediately cease its operations until such time as the conflict may be resolved. If the interference complained of cannot be eliminated within thirty (30) days, Licensee will remove all its Antenna Facilities from the Premises, and this Agreement shall be terminated without penalty.

9.4 City will not grant a license to enter into any other agreement with any other party for the use of City's Premises without including in that license a provision stating that the party's use will not in any way adversely affect or interfere with Licensee's signal operation or its communication system. Furthermore, license agreements or other agreements with third-parties will state that prior to installation of improvements, such third-parties shall be required to conduct bandwidth testing of its equipment and the equipment of Licensee to check bandwidth conflict between third-party equipment and Licensee's equipment. In addition to any other rights available to Licensee at law or in equity, Licensee shall have the right to terminate this Agreement upon ten (10) days written notice to City if another user of the Premises causes significant interference with Licensee's operations, and such interference is not corrected within thirty (30) days following the notice to such third-party user causing the interference. In the event that Licensee experiences interference caused by a third-party licensee, Licensee agrees that it shall seek recourse solely from such third-party. No compensation shall be due from City for damages, including, but not limited to, lost or anticipated profits.

9.5 Licensee shall have the sole burden of, and be responsible for, all costs associated with alleging and proving that another user of the Premises is causing significant interference, as well as for otherwise enforcing Licensee's rights under this Agreement against another user of the Premises. City shall not be responsible for the costs associated with the resolution of any dispute between users of the Premises, or enforcement of any of Licensee's rights under this Agreement against another user of the Premises.

Article X

Condition of Premises

10.1 City shall maintain the Premises in compliance with all applicable statutes, ordinances, regulations and rules required for City uses of the Premises, and in a manner which will not interfere with Licensee's reasonable use of the Premises. Upon expiration, cancellation,

or termination of this Agreement, Licensee shall remove its Antenna Facilities from the Premises at Licensee's cost and expense. Upon vacation of the Premises, Licensee shall surrender the Premises in substantially the same condition as received, except for ordinary wear and tear and loss due to other casualty beyond Licensee's control. If the Premises are not surrendered in the condition required by this paragraph, the Licensee shall pay City within sixty (60) business days of written demand an amount equal to the actual cost paid by the City to third-parties to restore the Premises to substantially the same condition as received.

10.2 Licensee shall have sole responsibility for the maintenance, repair, and security of its Antenna Facilities, and shall keep same in good repair and condition during the term and all renewals and holdover tenancies of this Agreement.

10.3 Licensee shall keep the Premises it occupies free of debris and anything reasonably determined to be of a dangerous, noxious, or offensive nature or which would create a hazard or undue vibration, heat, noise, or interference.

10.4 In the event City or any other licensee undertakes painting, construction, or other alterations on the Premises, Licensee shall take reasonable measures at Licensee's cost to cover all of Licensee's Antenna Facilities and protect such from paint and debris fallout which may occur during the painting, construction, or alteration process. City shall not be responsible for any damages or costs incurred by Licensee due to the actions or omissions of any third-party licensees authorized by City to enter upon the Premises to undertake such work. City shall provide thirty (30) business days written notice to all licensees upon the Premises prior to City undertaking such painting, construction, or other alterations.

10.5 By taking possession of the Premises, Licensee accepts the Premises in the condition existing as of the Effective Date. City makes no representation or warranty with respect to the condition of the Premises and City shall not be liable for any latent or patent defect in the Premises. City agrees to notify Licensee of the existence of any latent defects of which the City has actual knowledge.

Article XI

Construction, Installation and Operation

11.1 **Construction, Installation and Operation.** Licensee may, at its sole cost and expense, construct, install, operate, upgrade, maintain, monitor, reconfigure and repair its Antenna Facilities. Not less than thirty (30) days prior to the date on which Licensee intends to commence construction of its Antenna Facilities, Licensee shall provide to the City for its approval a proposal containing: (i) a written notice and plan describing, in reasonable detail, the steps necessary to complete Licensee's construction and installation; (ii) a list and description of all Antenna Facilities to be installed on the Premises; (iii) a list of all contractors, subcontractors and other entities that will perform Licensee's construction and installation work; and, (iv) copies, certificates or other proof that Licensee or Licensee's contractors and subcontractors have obtained all necessary permits, including City issued building permit, and licenses for the performance of Licensee's work. City's failure to respond in writing to Licensee's proposal within twenty (20) days of City's receipt of the proposal shall constitute City's approval of the proposal, and Licensee

may commence Licensee's work pursuant to such proposal. City's grant of approval under this Section shall not be construed as an assumption of liability or indemnification; nor shall such approval replace or constitute any approval that Licensee is required to obtain from any duly authorized local authorities for any construction, installation or other element of Licensee's work.

No materials may be used in the installation of the antennas or transmission lines that will cause corrosion or rust or deterioration of the Tower structure or its appurtenances.

All antenna(s) on the Tower must be identified by a marking fastened securely to its bracket on the Tower and all transmission lines are to be tagged at the conduit opening where it enters any user's equipment space.

11.2 Marking and Lighting Requirements. Licensee acknowledges that it shall be responsible for compliance with all tower or building marker and lighting requirements which may be required by the Federal Aviation Administration or the Federal Communication Commission in conjunction with Licensee's installation and maintenance of Antenna Facilities under this Agreement, as well as any expenses, fees or fines associated with the compliance or the non-compliance of Licensee's installation or maintenance of the Antenna Facilities under this Agreement.

11.3 Inspection and Tests. Upon the Effective Date and for the term of this Agreement, Licensee shall have reasonable access as provided in Article VII above to the Premises as are necessary and approved by City for the purpose of inspection and planning.

11.4 Payment, No Mechanics Liens. Licensee shall make full and prompt payment of all sums necessary to pay the costs of all installation, repairs and alterations, improvements, changes and other work done by Licensee in or to the Premises. Title to the Antenna Facilities shall be held by Licensee. City shall not be responsible for or with respect to the performance of Licensee's work. Licensee shall pay or cause to be paid all costs associated with Licensee's work. Licensee shall not suffer or permit to be enforced against any portion of the Premises any (i) mechanic's, materialman's, contractor, subcontractor or other lien or claim arising from or in any way related to Licensee's work, or (ii) any other claim, mortgage, security interest, encumbrance, lien or other charge. Within thirty (30) days after recordation of any lien, encumbrance, judgment or similar item which affects the Premises in any way, Licensee shall obtain the complete discharge and release thereof at Licensee's sole expense or expenditure (without any cost being imposed upon City.) However, Licensee shall have the right to contest, in good faith, any mechanic's or materialman's lien upon the condition that Licensee provides a bond or other form of security reasonably acceptable to City in an amount sufficient to hold City fully and completely harmless from any and all liability therefor or on account thereof.

11.5 Improvements to Premises; Removal. All Antenna Facilities constructed, installed and operated by or on behalf of Licensee shall remain Licensee's personal property and are not fixtures. Licensee shall remove all Antenna Facilities at its sole expense within thirty (30) days following the expiration or earlier termination of this Agreement and Licensee shall repair any damage to the Premises caused by such removal and fully restore the Premises to substantially the same condition as existed prior to the Commencement Date at its sole cost and expense,

ordinary wear and tear and loss due to other casualty beyond Licensee's control excepted. Licensee shall provide to City in writing, by not later than the end of the prescribed thirty (30) day period, notice that all Antenna Facilities have been removed in accordance with this Section. Failure of Licensee to remove any or all Antenna Facilities from the Premises within the prescribed thirty (30) days shall be construed as holdover pursuant to this Section, and all obligations and requirements, including payment of Rent Payments, shall continue to apply unless and until Licensee removes all Antenna Facilities and so notifies City.

11.6 Liability for Damage/Outages. Licensee shall be solely responsible for any damage caused by Licensee, its agents and/or contractors on or to the Premises that causes an interruption or outage in the services, operations or utilities of another licensee, and shall indemnify and hold harmless City and its employees, agents, successors and assigns from all claims or actions for damages, including actual, incidental and consequential damages, brought by another licensee as a result and to the extent of Licensee's, or its employees', contractors', agents', assigns' or licensees', willful, reckless or gross negligence or other conduct provided that City requires all other licensees to agree in writing to provisions identical to this Section 11.6 for the benefit of Licensee.

Article XII Compliance with Laws

12.1 By Licensee. Licensee, its employees, agents, designees, contractors, subcontractors, customers, invitees and licensees, shall comply in all material respects and at all times with all local, state and federal laws, statutes, ordinances, regulations, rulings, requirements, conditions, orders, licenses, permits, covenants, restrictions, approvals and consents pertaining to Licensee's services, Licensee's construction, installation and operation work, Antenna Facilities and Licensee's use of the Premises. Without limiting the generality of the preceding sentence, Licensee shall fully and timely observe and comply with applicable laws, regulations, policies and requirements concerning health and/or public safety, including standard industry equipment safety regulations, and shall not use the Premises or operate the Antenna Facilities in any manner which is inconsistent therewith. Licensee shall, at Licensee's sole cost and expense, promptly apply for and use its commercially reasonable efforts to obtain and maintain all necessary licenses, permits, approvals and consents required or necessary for the construction and operation of the Antenna Facilities. In the event Licensee fails to obtain any required license, permit, approval or consent to construct and operate the Antenna Facilities, through no fault of Licensee, Licensee shall have the right to terminate this Agreement in accordance with Article V of this Agreement.

12.2 By City. The City shall comply in all material respects and at all times, and shall cause its employees, agents, designees, contractors, subcontractors, customers, invitees and licensees (collectively "City") to comply in all material respects and at all times with all laws, ordinances, orders, rules and regulations of all governmental or judicial authorities having jurisdiction thereof, whether state, federal or local, relating to the Premises. Without limiting the generality of the preceding sentence, City shall fully and timely observe and comply with applicable laws, regulations, policies and requirements concerning health and/or public safety with respect to the Premises.

Article XIII Complaint Resolution

If either Licensee or City receives a written complaint regarding Licensee's operations and such complaint, if determined by the City to be valid and if the cause of such complaint would cause Licensee to be in default of this Agreement, Licensee shall respond within ten (10) business days of receipt of such written complaint. Licensee shall respond with a written explanation to each such complaint with detail of its investigation into the incident upon which the complaint was based (the "Incident") and the actions that Licensee has taken to resolve the Incident including, when necessary, all future actions Licensee will take to fully resolve the Incident or prevent a recurrence of the Incident. If the Incident cannot be resolved to the satisfaction of the complainant within fifteen (15) days, Licensee shall provide a schedule for completion of its plan to resolve or prevent the Incident; such schedule is subject to City approval. If future action is necessary, Licensee shall include a schedule for completion of its plan to correct or prevent the Incident; such schedule is subject to City approval. If City must step in and resolve a complaint regarding Licensee's operations, Licensee shall reimburse City for all actual reasonable expenses incurred. If City imposes upon Licensee a resolution to an incident that does not involve a breach of the Agreement by Licensee, the breach by Licensee of any federal, state, or local law or ordinance or the commission by Licensee of any negligent or intentional act or omission to a person that causes bodily injury or property damage and Licensee does not wish to resolve the incident in the manner directed by City, Licensee may terminate this license upon thirty (30) days' notice without penalty.

Article XIV Utility Easements and Utility Cost

14.1 The City, as partial consideration for rent paid under this Agreement, has granted Licensee an easement ("Easement") for adequate ingress, egress, and access to the Premises to service the Antenna Facilities at all times during the Initial Term of this Agreement or any Renewal Term. The City shall have the right, after notice to Licensee and, at City's sole cost, to relocate the Easement provided the new location does not materially interfere with Licensee's operations or Antenna Facilities.

14.2 Licensee shall pay directly to all public utility service companies, before delinquency, all charges for the electricity, water and other utility services that Licensee consumes regarding the installation and operation of Licensee's Antenna Facilities and which are separately metered and charged to Licensee by any public utility service company, without any expense therefore being imposed upon City.

14.3 Licensee shall obtain separate public utility services from any company that will provide such services to the Premises.

14.4 Licensee shall not permit any charges for public utility services to accumulate or become a lien on the Premises. If Licensee fails to pay any such charge required to be paid by Licensee pursuant to this Section, City may, but shall not be required to, pay such charge on Licensee's behalf. If City pays any such charge on behalf of Licensee or incurs any cost with respect to any grant of any public utility service easement for the benefit of Licensee pursuant to

this Section, Licensee shall reimburse and pay to City an amount equal to all such charges so paid and all such easement costs so incurred, immediately upon demand as additional fees.

14.5 Additional Utility/Power Equipment. In the event that Licensee is required to or otherwise decides to install, operate and use additional equipment to provide electricity or other utility services required for the operations of Licensee's Antenna Facilities, such installation, operation and use shall comply in all respects with the terms and conditions set forth in this Agreement.

Article XV

Taxes

15.1 Licensee agrees to timely reimburse City for all taxes that are assessed against City, if any, that City demonstrates are due to the real property taxes attributable to Licensee's Antenna Facilities or use of the Premises and Antenna Facilities constructed or maintained by Licensee on or about the Premises; provided, however, City shall provide prior notification of any taxes for which Licensee is to be charged, so Licensee will have the opportunity to appear before the taxing authority and contest any assessment.

15.2 If Licensee fails to pay any such taxes for which Licensee is obligated or fails to notify City of its intent to contest such tax assessment, City may, but shall not be required to, pay such taxes on Licensee's behalf. If City pays any such taxes on behalf of Licensee pursuant to the preceding sentence, Licensee shall reimburse and pay to City an amount equal to any such taxes so paid, plus an administrative fee of ten percent (10%) of the taxes, immediately upon demand as additional rent.

Article XVI

Liability and Indemnification

16.1 LICENSEE SHALL AT ALL TIMES COMPLY WITH ALL LAWS AND ORDINANCES AND ALL RULES AND REGULATIONS OF MUNICIPAL, STATE AND FEDERAL GOVERNMENT AUTHORITIES RELATING TO THE INSTALLATION, MAINTENANCE, HEIGHT, LOCATION, USE, OPERATION, AND REMOVAL OF THE ANTENNA FACILITIES BY LICENSEE, AUTHORIZED HEREIN, AND SHALL FULLY RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY, ITS OFFICERS, OFFICIALS, AGENTS, SERVANTS OR EMPLOYEES AGAINST ANY AND ALL CLAIMS, DAMAGES, LAWSUITS, LOSSES, COSTS, OR EXPENSES WHICH MAY BE SUSTAINED OR INCURRED BY CITY, ITS OFFICERS, OFFICIALS, AGENTS, SERVANTS OR EMPLOYEES AS A RESULT OF LICENSEE'S INSTALLATION, OPERATION, OR REMOVAL OF SUCH ANTENNA FACILITIES, EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY OR ITS OFFICERS, OFFICIALS, AGENTS, SERVANTS OR EMPLOYEES.

16.2 EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY OR ITS OFFICERS, OFFICIALS, AGENTS, SERVANTS OR EMPLOYEES, LICENSEE UNDERTAKES AND ASSUMES FOR ITS

OFFICERS, AGENTS, EMPLOYEES, SERVANTS, AFFILIATES, CONTRACTORS AND SUBCONTRACTORS, ALL RISK OF DANGEROUS CONDITIONS, IF ANY ON OR ABOUT THE PREMISES, AND LICENSEE HEREBY AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY, ITS OFFICERS, OFFICIALS, AGENTS, SERVANTS AND EMPLOYEES AGAINST AND FROM ANY CLAIM ASSERTED OR LIABILITY IMPOSED UPON CITY, ITS OFFICERS, OFFICIALS, AGENTS, SERVANTS, AND EMPLOYEES FOR PERSONAL INJURY OR PROPERTY DAMAGE TO ANY PERSON ARISING OUT OF LICENSEE'S INSTALLATION, OPERATION, MAINTENANCE, CONDITION OR USE OF THE PREMISES OR LICENSEE'S ANTENNA FACILITIES OR LICENSEE'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE, OR LOCAL STATUTE, ORDINANCE OR REGULATION EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY OR ITS OFFICERS, OFFICIALS, AGENTS, SERVANTS OR EMPLOYEES.

16.3 LICENSEE REPRESENTS AND WARRANTS THAT ITS USE OF THE PREMISES HEREIN WILL NOT GENERATE ANY HAZARDOUS WASTES, AND IT WILL NOT STORE OR DISPOSE ON THE PREMISES NOR TRANSPORT TO OR OVER THE PREMISES ANY HAZARDOUS SUBSTANCE IN VIOLATION OF ANY APPLICABLE LAWS. PROVIDED, HOWEVER, THAT (I) LICENSEE MAY STORE ACID STORAGE BATTERIES ON THE PREMISES AS LICENSEE BELIEVES IS REASONABLY NECESSARY FOR USE IN THE EVENT OF A POWER OUTAGE, (II) LICENSEE MAY TRANSPORT TO AND STORE ON THE PREMISES A DIESEL OR PROPANE GENERATOR DURING AN EMERGENCY TO PROVIDE ELECTRICITY IN THE EVENT OF A POWER OUTAGE IN EXCESS OF FOUR (4) CONTINUOUS HOURS, (III) LICENSEE MAY USE EQUIPMENT COMMONLY USED IN THE PROVISION OF TELECOMMUNICATIONS SERVICES SUCH AS ELECTRONIC EQUIPMENT AND CABLE EVEN IF SUCH EQUIPMENT CONTAINS SOME HAZARDOUS COMPONENTS, AND (IV) LICENSEE MAY USE AND STORE CLEANING AGENTS AND OTHER SOLVENTS COMMONLY USED IN LICENSEE'S USUAL COURSE OF BUSINESS. LICENSEE FURTHER AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD CITY, ITS OFFICERS, OFFICIALS, AGENTS, SERVANTS AND EMPLOYEES, HARMLESS FROM AND AGAINST ANY DAMAGE, LOSS, OR EXPENSE OR LIABILITY RESULTING FROM THE GENERATING, TRANSPORTING, STORAGE OR DISPOSAL OF SUCH HAZARDOUS SUBSTANCES IN VIOLATION OF ANY APPLICABLE LAWS, INCLUDING ALL ATTORNEYS' FEES, COSTS AND PENALTIES INCURRED AS A RESULT THEREOF. "HAZARDOUS SUBSTANCE" SHALL BE INTERPRETED BROADLY TO MEAN ANY SUBSTANCE OR MATERIAL DEFINED OR DESIGNATED AS HAZARDOUS OR TOXIC WASTE, HAZARDOUS OR TOXIC MATERIAL, HAZARDOUS OR TOXIC OR RADIOACTIVE SUBSTANCE, OR OTHER SIMILAR TERM BY ANY FEDERAL, STATE OR LOCAL ENVIRONMENTAL LAW, REGULATION OR RULE PRESENTLY IN EFFECT OR PROMULGATED IN THE FUTURE, AS SUCH LAWS REGULATIONS OR RULES MAY BE AMENDED FROM TIME TO TIME.

Article XVII

Insurance

17.1 Required Insurance. On or before the Commencement Date and throughout the License Term, Licensee shall, at Licensee's expense, procure and maintain the following insurance policies:

- (a) Commercial general liability insurance for bodily injury, death or third-party property damage, insuring Licensee and including City as an additional insured, against claims caused by Licensee's negligence or willful misconduct on an occurrence basis, issued by and binding upon a solvent insurance company authorized to do business in Texas, with a minimum combined single limit of not less than \$2,000,000 per occurrence for injury to persons (including death), and for third party property damage or destruction, including loss of use. Notwithstanding the foregoing, at no time shall the minimum amount of coverage on a per occurrence basis as required by this Section 17.1(a) be less than twice the limitations on liability for municipalities set forth in Texas Civil Practices and Remedies Code §101.023, as amended or succeeded. Licensee may satisfy the limits required herein through the combination of any primary and/or excess liability policies.
- (b) Worker's Compensation and Employer's Liability insurance in the minimum amounts required by state law.
- (c) Insurance covering all the Antenna Facilities located or being constructed on the Premises against loss or damage from perils covered by an all risk or special form policy in amounts not less than the full replacement cost of the Antenna Facilities included in the Premises.

17.2 Evidence of Insurance. No later than five (5) days prior to the Commencement Date, Licensee shall furnish to City a certificate of insurance evidencing the required insurance.

17.3 Endorsements; Certificates of Insurance. All insurance (except workers' compensation and property insurance) shall include City, its officers, employees and agents as additional insureds as to all applicable insurance coverage on the general liability insurance coverage; (ii) provide at least thirty (30) days prior written notice to City for cancellation, non-renewal; (iii) provide for a waiver of subrogation against City. Any such insurance required by this Article XVII shall be primary and noncontributing with any insurance that may be carried by City as relates to Licensee's operations. Not later than ten (10) days after the renewal period for each policy, a certificate of insurance evidencing the required insurance coverage shall be delivered to City.

17.4 Qualifying Insurance Company. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A-VII" by AM Best or other equivalent rating service.

17.5 City Purchasing Insurance. In addition to other remedies provided in this Agreement, if Licensee fails to maintain the insurance required by this Article XVII, City may, but is not obligated to, obtain such insurance and Licensee shall pay to City upon demand, as additional rental the premium cost thereof plus interest at the Maximum Rate from the date of payment by City until repaid by Licensee but only for the period of non-compliance.

17.6 Contractor's Insurance. Without limiting any of the other obligations or liabilities of Licensee, Licensee shall require its contractors and subtenants, at the contractors' or subtenants' expense, to maintain during the portion of the License Term during which they occupy or otherwise are conducting activities on the Premises, the required insurance including the certificate and policy conditions as stated herein.

Article XVIII Notice

Any notice or demand required or desired to be given to any Party pursuant to this Agreement shall be in writing, shall be delivered to the address set forth below and shall be deemed validly served, given, delivered or made only if (i) personally delivered (including delivery by a commercially-recognized courier which provides service between the point-of-origin and the point-of-destination); (ii) deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, or (iii) via nation overnight courier service. Service by United States mail shall be deemed made on the date actually received. Upon request, Licensee shall provide City with a current list of Licensee contacts for payment issues and contacts for Licensee's Antenna Facilities.

If intended for City:

City of Farmers Branch
Attn: City Manager
13000 William Dodson Parkway
Farmers Branch, Texas 75234

With a copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard
Dallas, Texas 75201

If intended for Licensee:

T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, Washington 98006
Attn: Lease Compliance/DA01229A

City or Licensee may from time to time designate any other address for this purpose by written notice to the other Party.

Article XIX

Remedies

19.1 If there is an Event of Default by Licensee pursuant to Section 5.2; or if Licensee becomes insolvent; and has not filed for bankruptcy, City shall have the right, at its option, in addition to and not exclusive of any other remedy City may have hereunder or by operation of law, (a) with fifteen (15) business days demand or notice and after all applicable notice and cure periods described in Article V, to re-enter the Premises and remove the Antenna Facilities therefrom; or, (b) exercise any other right it may have at law or in equity. Upon such occurrence, City may either declare this Agreement and license granted herein at an end, in which event Licensee shall immediately pay City a sum of money equal to the total of the amount of Rental Fees accrued through the date of termination, with such Rental Fees including the additional costs incurred by the City for the removal of the Antenna Facilities from the Premises.

19.2 If there is an Event of Default, no re-entry and taking of possession of the Premises by City shall be construed as an election on City's part to terminate this Agreement, regardless of the extent of renovations and alterations by City, unless a written notice of such intention is given to Licensee by City.

19.3 If there is an Event of Default by City pursuant to Section 5.2, Licensee shall have the right, at its option, in addition to and not exclusive of any other remedy City may have hereunder, to exercise any other right it may have at law or in equity.

Article XX

Force Majeure

Notwithstanding any other provision in this Agreement to the contrary, neither Party will have any liability to the other with respect to its failure to perform its obligations under this Agreement, except for the payment of amounts due, if such failure is due to any of the following events (each a "Force Majeure" event): (i) the failure of any equipment or software under the control of a person, firm or entity not affiliated with such Party; (ii) fire, flood, earthquake, law or government regulation; or (iii) any other cause beyond the reasonable control of such Party. In any such case, the Parties' time for performance under this Agreement and the term hereof, to the extent affected by any of the foregoing, shall be correspondingly extended; provided, however, that if such condition shall continue in effect for more than 180 days, either Party shall have the right to terminate this Agreement upon thirty (30) days' notice.

Article XXI

Miscellaneous Provisions

21.1 **Modifications.** Licensee's operations and all City approved modifications to the Premises must at all times comply with the terms of this Agreement, all applicable federal, state and local laws and ordinances and all amendments thereto.

21.2 **Entire Agreement.** This Agreement, together with all Exhibits attached hereto and incorporated herein constitutes the entire agreement between the Parties with respect to the subject

matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that in any manner relates to the subject matter of this Agreement.

21.3 **Capacity.** Both Licensee and City represent that they have full capacity and authority to grant all rights and assume all obligations they have granted and assumed under this Agreement.

21.4 **Governing Law.** The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said Court.

21.5 **Amendment.** This Agreement may only be amended by the mutual written agreement signed by the Parties hereto.

21.6 **Legal Construction; Severability.** In the event that any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

21.7 **Nonwaiver.** No right or remedy granted herein or reserved to the Parties is exclusive of any right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every right or remedy given hereunder. No covenant or conditions of this Agreement may be waived without consent of the Parties. It is further agreed that one (1) or more instances of forbearance by City in the exercise of its rights herein shall in no way constitute a waiver thereof.

21.8 **Independent Contractor.** Licensee covenants and agrees that Licensee is an independent contractor and not an officer, agent, servant or employee of City; that Licensee shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Licensee, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Licensee.

21.9 **Successors and Assigns.**

- (a) City and Licensee each bind themselves, their successors, executors, administrators and assigns to the other Party to this Agreement other than transactions including Affiliates of Licensee. Neither City nor Licensee will assign, sublet, subcontract or transfer any interest in this Agreement without the written consent of the other Party. Other than transactions including Affiliates of Licensee, no assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of City. Other than transactions including Affiliates of Licensee, Licensee shall not assign, sublet, subcontract, transfer or allow the use of

any interest in the Premises or any use of Licensee's Antenna Facilities, including but not limited to equipment, lines, channels or frequencies, on the Premises without the prior written consent of City. City shall not unreasonably withhold, condition or delay its consent.

- (b) Licensee may assign this Agreement to any parent, subsidiary or Affiliate without the need to obtain the consent of City. As used herein "Affiliate" shall mean any entity which is at least fifty-one percent (51%) controlled by Licensee or having control over Licensee, provided such assignee has first received FCC or state regulatory agency approvals, acquires Licensee's radio communications business and assumes all obligations of Licensee under this Agreement. Notwithstanding any assignment permitted under this Section or otherwise under this Agreement, Licensee shall remain absolutely and unconditionally primarily liable to pay and perform each and all of the obligations set forth in this Agreement prior to said assignment and shall be relieved of all future performance, liability and obligations after said assignment.
- (c) If City shall, at any time, relinquish its ownership or otherwise dispose of the Premises pursuant to an assignment consented to in writing by Licensee pursuant to Section 21.9(a), City shall be automatically released from all obligations under and pursuant to this Agreement that accrue after such disposition. If the Premises are so disposed of, Licensee shall not disavow any of Licensee's obligations pursuant to this Agreement but shall attorn to the purchaser or transferee thereof for the performance of City's obligations under this Agreement.

21.10 Applicable Laws. This Agreement is entered into subject to the charter and ordinances of City as they may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable federal and Texas state laws.

21.11 Subordination to Mortgage. Subject to receipt of the non-disturbance agreement described below, any mortgage now or subsequently placed upon any property of which the Premises are a part shall be deemed to be prior in time and senior to the rights of the Licensee under this Agreement. Subject to receipt of the non-disturbance agreement described below, Licensee subordinates all of its interest in the Premises created by this Agreement to the lien of any such mortgage. Licensee shall, at City's request, execute any additional documents necessary to indicate this subordination provided that such mortgage shall not disturb possession of Licensee hereunder. In the event a mortgage currently exists on the Premises, City shall within five (5) business days of the Effective Date, deliver a non-disturbance agreement (in form reasonably acceptable to Licensee) from the holder of such lien and City shall obtain same from any future lien holder.

21.12 Contract Interpretation. Both Parties have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply to the interpretation of this Agreement.

21.13 **Effective Date.** The term “Effective Date” as used in this Agreement shall be deemed to be the later of the dates the Parties execute this Agreement, as indicated in the signature blocks on the next page.

(signature pages to follow)

EXECUTED on this _____ day of _____, 2018.

City of Farmers Branch

By: _____
Charles S. Cox, City Manager

Attest:

By: _____
Amy Piukana, City Secretary

Approved as to Form:

Peter G. Smith, City Attorney
(FINAL10/19/2018:TM103593)

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2018, by Charles. S. Cox, City Manager, on behalf of the City of Farmers Branch.

Notary Public, State of Texas

EXECUTED on this _____ day of _____, 2018.

LICENSEE:
T-Mobile West LLC

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF _____ **§**

§

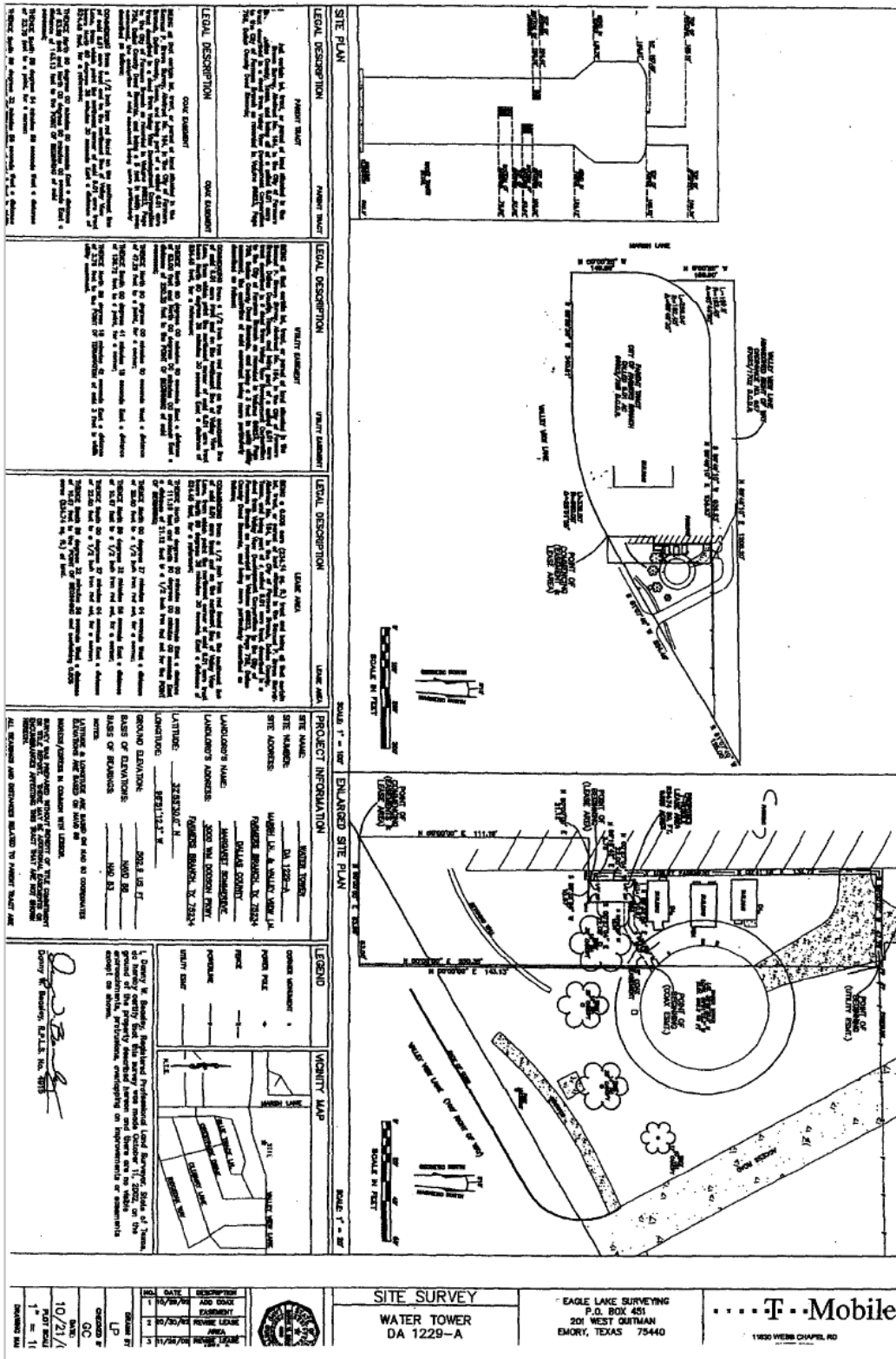
COUNTY OF _____ §

§

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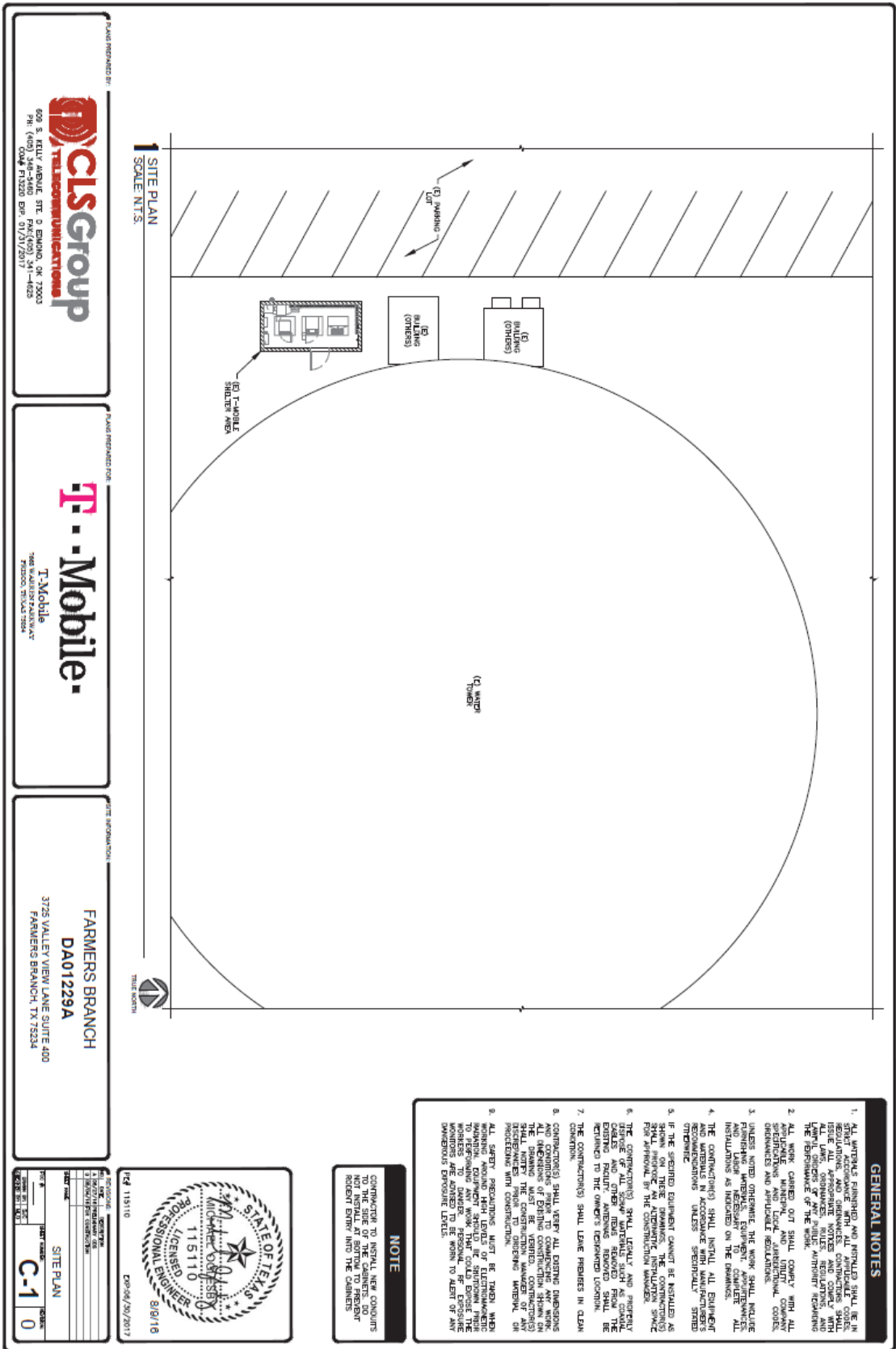
This instrument was acknowledged before me on the _____ day of _____, 2018, by _____, _____ of T-Mobile West LLC.

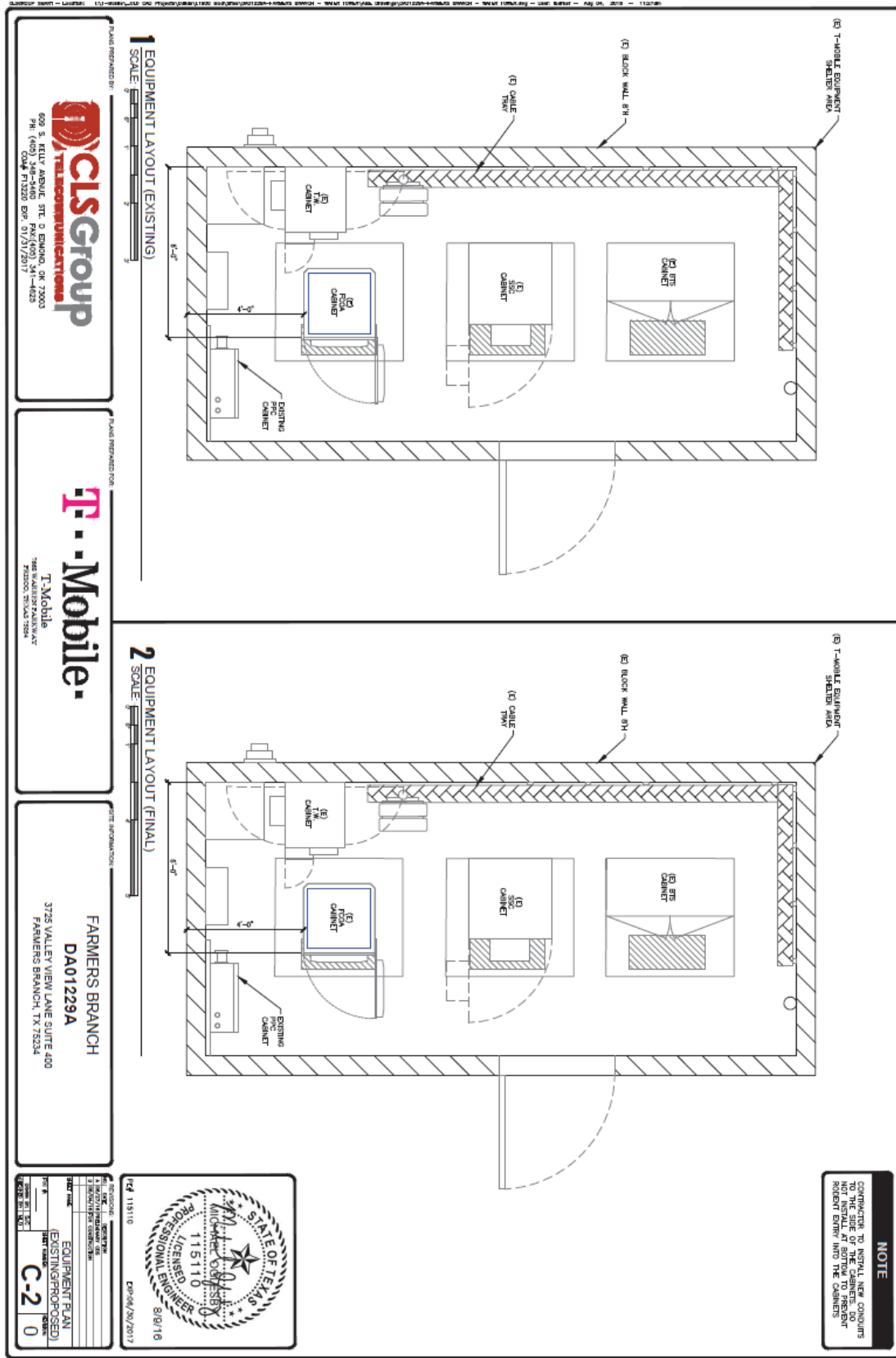
Notary Public in and for
The State of _____

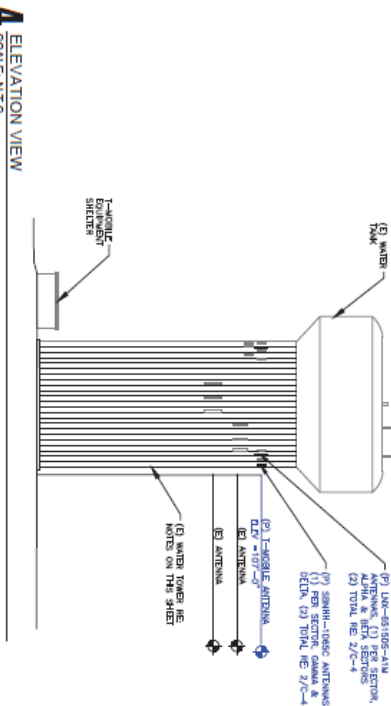
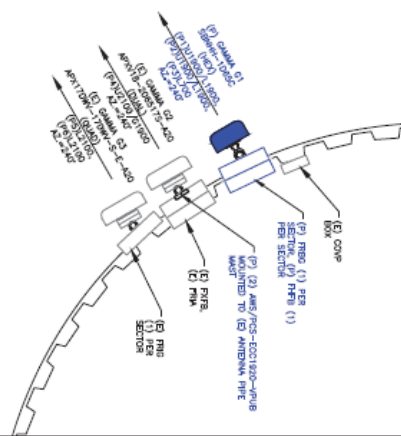
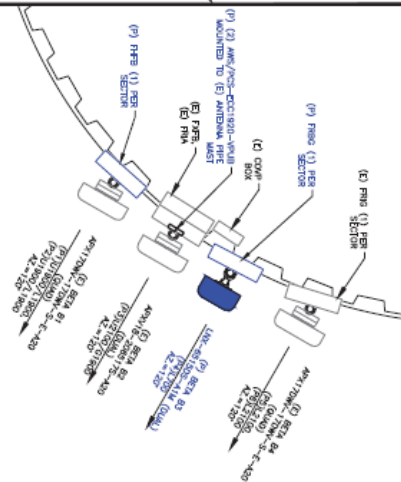
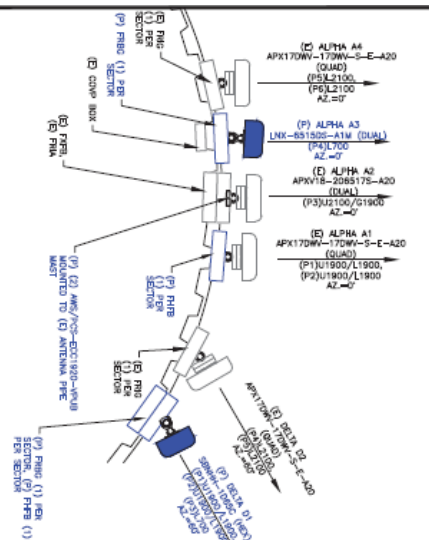


PAGE 1

[illegible]







NOTE

NOTE

WATER TOWER IS SHOWN FOR ILLUSTRATION ONLY AND FOR LOCATION OF MOUNTING BRACKET.

INSTALLED EQUIPMENT MUST HAVE A WATCHING APPLICATION AND STRUCTURAL EQUIPMENT TO BE INSTALLED ON EXISTING MOUNT AT EXISTING HEIGHT. CORD ROLLING MUST BE PER SA OR OTHERS.

PREFER TO CONSTRUCTION:

CONTRACTOR SHALL VERIFY THAT A WATER TOWER AND MOUNT STRUCTURAL ANALYSIS HAS BEEN COMPLETED BY A LICENSED PROFESSIONAL ENGINEER OR AN "ACCREDITED" FIRM UNDER NO CIRCUMSTANCES WHAT SO EVER SHALL THE PROPOSED EQUIPMENT BE INSTALLED WITHOUT SA STRUCTURAL ANALYSIS. IF SA STRUCTURAL ANALYSIS INDICATES THAT THE TOWER AND/OR MOUNT BE MODIFIED, THE TOWER SHALL BE CONSIDERED PRIOR TO INSTALLATION OF THE PROPOSED EQUIPMENT.

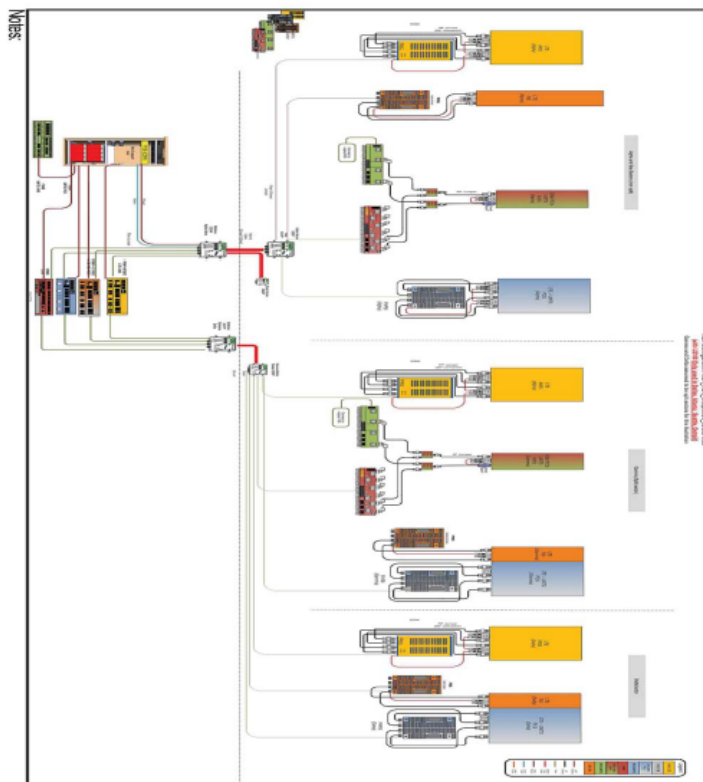
WATER TOWER AND MOUNT ANALYSIS DONE BY OTHERS.

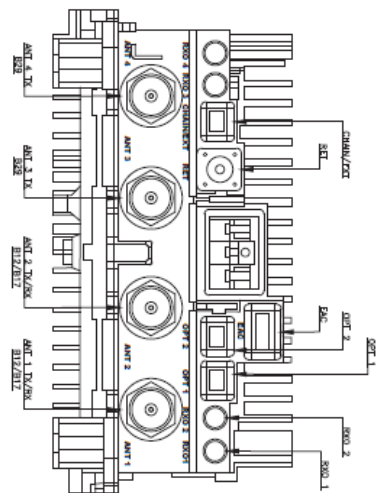
CLS Group
Telecommunications
609 S. KELLY AVENUE, STE. D DUNMORE, OK 73003
PH: (405) 348-5460 FAX: (405) 341-6623
COWP 01/2012 EXP: 01/31/2017

T-Mobile
T-Mobile
7045 WALDEN PARKWAY
FREDON, TEXAS 75844

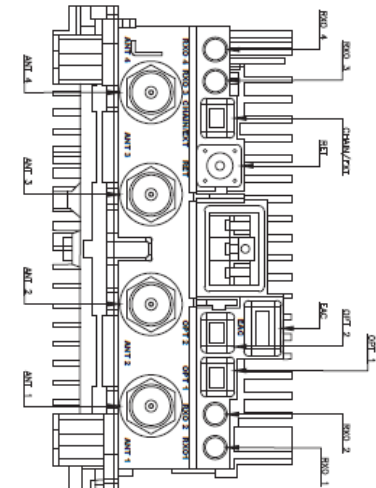
FARMERS BRANCH
DA01229A
3725 VALLEY VIEW LANE SUITE 400
FARMERS BRANCH, TX 75234







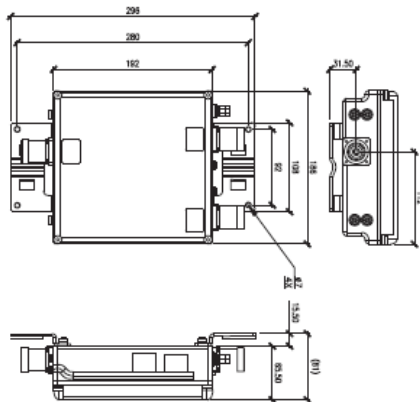
MANUFACTURE	NOKIA
MODEL	PRIMO
DIMENSIONS	23.0" X 12.6" X 6.2"
H X W X D (IN)	
WEIGHT (LBS)	57.3 LBS
FEEDBACK:	REFER TO RF DATA SHEET



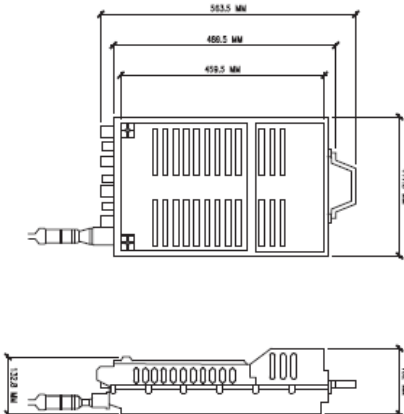
MANUFACTURE:	NODA
MODEL:	PH1
DIMENSIONS:	23.0" X 12.8" X 8.2"
H X W X D (IN)	
WEIGHT (LBS):	55.1 LBS
FREQUENCY:	REFS TO RF DATA SHEET

FRBG SPECIFICATION
SCALE: NTS

FHFB SPECIFICATION



MANUFACTURE	COMSCOPE
MODEL	ECI-1020-MF18
DIMENSIONS:	7.6" X 7.3" X 2.6"
H X W X D	
WEIGHT (LBS)	7.9 LBS
FREQUENCY:	REFER TO RF DATA SHEET



MANUFACTURE	NOVA
MODEL	FMS
DIMENSIONS	562.5 MM X 417.0 MM X 152.0 MM
W X H X D	
VOLUME (LBS)	24 KG
REQUIRE	REFER TO RF DATA SHEET

3 ECC1920-VPUB SPECIFICATION

4 FRIG SPECIFICATIONS

PLANTS PREPARED BY:

PLANS PREPARED FOR:

SITE INFORMATION

RE: GN22/GN1



FARMERS BRANCH
DA01229A
3725 VALLEY VIEW LANE SUITE 400
FARMERS BRANCH, TX 75234



EXHIBIT “C”

Farmers Branch Mounted Antenna Policy for Elevated Storage Tanks

Mounted Antenna Policy for Elevated Storage Tanks

The City of Farmers Branch recognizes that the placement of antennas or similar structures on elevated storage tanks can be necessary for the continued growth of personal communications. Elevated storage tanks can provide the necessary structure and height for antennas without erecting additional monopole facilities throughout the city.

Currently, the City owns and operates three elevated storage tanks located at 3723 Valley View Lane, 14927 Marsh Lane, and 14337 Gillis Road. Each of the storage tanks as well as sites have unique and different characteristics.

General Site Requirements:

The City is under no obligation to allow private antennas on any of the elevated storage tanks. However, if the City chooses to do so the following criteria must be met at all sites:

- Nothing in this policy shall contradict any city ordinance.
- The equipment facility shall be of the same material, color, and character of other city owned structures on site. Any deviations shall be approved by the City Manager or his designee.
- The equipment facility shall meet all building requirements.
- All zoning regulations must be followed.
- A structural and electrical engineering analysis performed and sealed by a professional engineer, site plans and construction plans shall be approved by staff before any permits are issued.
- All wires, cables, etc. must be underground from the equipment facility to the storage tank. On the tank they must be attached to the interior and painted to match. Paint shall be of the same specifications as paint used on the storage tank.
- No antenna system shall be placed on the bowl of the storage tank.
- If operation of antenna interferes with city operations including transmission of public safety, the Leasee will cease transmitting immediately.
- The appearance and/or design of the antenna or equipment facility shall not harm city facilities or aesthetics.

Specific Site Requirements

Due to the nature of elevated storage tanks, piping requirements for the towers limit the area that equipment facilities can be placed on site.

3723 Valley View Lane:

- Antennas shall be placed on the base of the tank up to 115 feet and in the recesses of structure not extending past the tank.
- The equipment facility shall be located in the area as outlined on Attachment A.
- Equipment facility shall not be higher than the Justice Center wall that faces Valley View Lane.
- Equipment facility shall be of the same materials incorporated into the Justice Center unless deviation is approved by the City Manager.

14927 Marsh

- Antennas shall be placed on the "legs" of the tank up to 78 feet and not on the bowl itself.
- The equipment facility shall be of the same materials and colors as the ground storage tanks that are on site.
- The equipment facility shall be placed in the area located in Attachment B.

14337 Gillis

- Antennas shall be attached to the concrete base up to 88 feet. No antennas shall be placed or attached to the bowl.
- The equipment facility shall be of precast concrete construction and located in the area located in Attachment C.
- The fence shall be moved back in order that equipment facilities are on the outside of the fence allowing free access by Leasee.

Location of equipment facility or antenna shall only be changed by approval of the City Manager or designee.